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In Re Application of
SALOMA et al.
Application No.: 10/529,043
PCT No.: PCT/PH02/00018
Int. Filing Date: 27 September 2002
Priority Date: None
Attorney Docket No.: 0002200USU/2280
For: TWO-COLOR (TWO PHOTON) EXCITATION
BEAMS AND A RAMAN SHIFTER

DECISION

This is a decision on applicant's "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a)", requesting withdrawal of the 21 July 2006 Notification of Abandonment. The petition was filed in the United States Patent and Trademark Office (USPTO) on 2 August 2006.

On 27 September 2002, applicant filed international application No. PCT/PH02/00018 with an executed declaration under PCT Rule 4.17. The international application designated the United States but did not claim a priority date. Thereafter, on 24 March 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 28 July 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration, was required.

On 15 September 2005, applicant filed a response to the 905, indicating that the declaration and power of attorney was filed under PCT Rule 4.17(iv).

On 21 July 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant indicating that applicant had not responded to the 905.

On 2 August 2006, applicant filed the instant petition indicating that the declaration was filed with the international application on 27 September 2002 along with a copy of the Request. Applicant urges that the Form PCT/DO/EO/909 be vacated.

DISCUSSION

It appears that executed declarations, pursuant to PCT Rule 4.17, were filed with the International application as part of the Request on 27 September 2002. Applicant submitted two declarations of inventorship, under PCT Rule 4.17(iv), where one declaration listed two inventors and the second declaration listed the third inventor. Where all inventors did not sign the same

declaration, each declaration shall indicate the names of all inventors. See Administrative Instructions Under the PCT, Section 214(a) and (b). Since applicant submitted two declarations under Rule 4.17 and these declarations did not list all inventors on each declaration, the declarations are unacceptable and are not in compliance with 37 CFR 1.497(a) and (b).

The Notification of Missing Requirements mailed on 28 July 2005 did not identify the defect in the declarations and is hereby **VACATED**. The Notification of Abandonment (Form PCT/DO/EO/909) mailed on 21 July 2006 is hereby **VACATED**.

What is required is a newly executed declaration, which identifies all the inventors, and states the citizenship, residency and mailing address of all inventors.

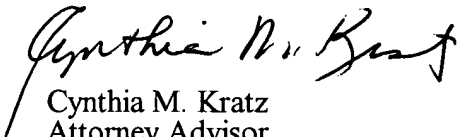
CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Missing Requirements mailed on 28 July 2005 is hereby **VACATED**. The Notification of Abandonment (Form PCT/DO/EO/909) mailed on 21 July 2006 is hereby **VACATED**.

The declaration submitted with the international application is unacceptable under the PCT Administrative Instructions and does not meet the requirements of 37 CFR 1.497(a) & (b). As set forth above, a newly executed declaration is required.

This application will be forwarded to the United States Designated/Elected Office for further processing, including issuance of a new Notification of Missing Requirements, in accord with this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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